D.B. CIVIL SPECIAL APPEAL(W)NO.238/2006

Tarawati
Vs.
S.T.A.T. & Ors.

DATE OF ORDER :: 22-03-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Satish Khandelwal, for the appellant.

This appeal is directed against the common order of the learned Single Judge dated 30.1.2006 dismissing five writ petitions including that of the appellant.

The dispute relates to validity of Inter-State permit. The case of the appellant is that the impugned order was passed in the appeal filed by one Vijay Singh without impleading the appellant, and thus the appellant was denied any opportunity of hearing. The learned Single Judge dismissed the writ petition relying on a decision of the Supreme Court in Ashwani Kumar,(1999) 8 SCC 364. The submission of the counsel for the appellant is that the facts of the present case was different, and the decision in Ashwani Kumar has no application. He placed reliance on Vishnu Dutt and Others Vs. State of Rajasthan and Others, (2005) 13 SCC 592.

We do not wish to record any finding on merit of the case. As stated above, the order was passed by the STAT behind the back of the appellant, and therefore the

appropriate course appears to be to remit the matter back to STAT to provide the appellant an opportunity of hearing. Notice was issued to respondent no.3 i.e. Vijay Singh at whose instance the impugned order was passed by the Authority but he has chosen not to appear. In that view of the matter, the order of the STAT dated 1.4.2005, so far as it relates to the appellant, is set aside and the matter is remitted to it (STAT) for fresh decision.

The appellant may file application setting out relevant facts, whereafter the proceedings may be revived and appropriate order may be passed.

The interim order of this Court permitting the appellant to operate the bus will remain in force upto 30.4.2007.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen